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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,696	09/28/2000	Joseph B. Sainton	0301.396	8478

7590 02/19/2004

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EXAMINER	
TRINH, SONNY	
ART UNIT	**PAPER NUMBER**
2685	11

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/670,696	SAINTON ET AL.	
	Examiner	Art Unit	
	Sonny TRINH	2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 September 2000*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-106* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *24-106* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 24-31, drawn to adaptive control to generate frequency signal and protocol control signal appropriate for the wireless communication network that is determined by said adaptive control means to be available and satisfies the user defined individual priority, classified in class 455, subclass 435.3.

II. Claims 32-57, drawn to modulation protocol suitable for transmission of digital signal information over a selected wireless communications network and for generating the frequency control signal and the protocol control signal in response to a user defined criteria to cause the device to communicate with the selected communication network using the frequency control signal and protocol determined by the protocol control signal, classified in class 455, subclass 452.1.

III. Claims 58-66, drawn to modulation protocol suitable for transmission of the digital signal information over a selected wireless communications network, classified in class 455, subclass 552.1.

IV. Claim 67, drawn to means for determining the relative time delay in receiving at least three synchronized timing signals and for performing triangulation operations to determine the omni modal device from each of

the at least three transmitter locations, classified in class 455, subclass 456.5.

V. Claims 68-70, drawn to means for selecting cellular network / landline network, classified in class 455, subclass 553.1.

VI. Claims 71-77, drawn to security and cost of the wireless communication network, classified in class 455, subclass 410.

VII. Claims 78-84, drawn to the available network which satisfies the prioritized set of user criteria, classified in class 455, subclass 439.

VIII. Claim 85-91, drawn to the determination of the amount of each type of item remaining in the vending machine is transmitted, classified in class 700, subclass 236.

IX. Claims 92-94, drawn to a system for selectively access the wireless communication network in response to an operation characteristic, classified in class 435, subclass 435.2.

X. Claims 95-96, drawn to dynamic network evaluation and pricing, classified in class 455, subclass 405.

XI. Claims 97-99, drawn to processing means, within the portable radio device, capable of receiving the signal indicative of a quoted price from the networks, classified in class 455, subclass 414.3.

XII. Claim 100-101, drawn to selecting data/voice based on user defined criteria, classified in class 370, subclass 493.

XIII. Claims 102-106, drawn to removable card control element, classified in class 455, subclass 558.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as a user defined criteria to cause the device to communicate with the selected communication network using the frequency control signal and protocol determined by the protocol control signal. See MPEP § 806.05(d).

Inventions III and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as selecting the modulation protocol suitable for transmission of the digital signal information over a selected wireless communications network. See MPEP § 806.05(d).

Inventions IV and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as means for determining the relative time delay in receiving at least three synchronized timing signals and for performing triangulation operations to determine the omni modal device from each of the at least three transmitter locations. See MPEP § 806.05(d).

Inventions V and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention V has separate utility such as means for selecting cellular network / landline network. See MPEP § 806.05(d).

Inventions VI and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VI has separate utility such as determining the security and cost of the wireless communication network. See MPEP § 806.05(d).

Inventions VII and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VII has separate utility such as selecting the available network which satisfies the prioritized set of user criteria. See MPEP § 806.05(d).

Inventions VIII and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention VIII has separate utility such as the determination of the amount of each type of item remaining in the vending machine is transmitted. See MPEP § 806.05(d).

Inventions IX and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IX has separate utility

such as a system for selectively access the wireless communication network in response to an operation characteristic. See MPEP § 806.05(d).

Inventions X and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention X has separate utility such as selecting dynamic network evaluation and pricing. See MPEP § 806.05(d).

Inventions XI and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XI has separate utility such as processing means, within the portable radio device, capable of receiving the signal indicative of a quoted price from the networks. See MPEP § 806.05(d).

Inventions XII and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XII has separate utility such as selecting data/voice based on user defined criteria. See MPEP § 806.05(d).

Inventions XIII and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention XIII has separate utility such as the card control element. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for any other Groups (II through XIII), restriction for examination purposes as indicated is proper.

Conclusion

Any response to this action should be mailed to:

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or faxed to:

(703) 872-9306, (for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, 6th Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny Trinh whose telephone number is (703) 305-1961. The examiner can normally be reached Monday through Thursdays from 7:00 am to 4:00 p.m., and on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Sonny Trinh
Patent Examiner
2/13/04

SONNY TRINH
PATENT EXAMINER